

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:05CV231-1-MU

JOHNNY A. FOX,

Petitioner,

v.

HUGH DOUGLAS MITCHELL,

Respondent.

**ORDER**

**THIS MATTER** comes before the Court upon the Respondent's Motion for Summary Judgment (Document # 3), filed August 5, 2005.

On August 8, 2005, the Court sent Petitioner an Order in compliance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975). In this Order, the Court notified the Petitioner that the Respondent had filed a Motion for Summary Judgment and that if the Petitioner failed to respond to this motion within thirty days, the Court might grant the Motion for Summary Judgment. As of this date, the Petitioner has failed to respond to the Respondent's Motion.

The Court has carefully reviewed the Motion for Summary Judgment and finds that the Respondent is entitled to a dismissal.

**THEREFORE, IT IS HEREBY ORDERED** that:

1. Respondent's Motion for Summary Judgment is **GRANTED; and**
2. Petitioner's Petition for a Writ of Habeas Corpus is **DISMISSED.**

**Signed: September 29, 2005**

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
Chief United States District Judge

